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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,662	02/18/2004	Yukio Nakagawa	IS-US031017	8934
22919	7590	10/03/2005	EXAMINER	
SHINJYU GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680			PURVIS, SUE A	
			ART UNIT	PAPER NUMBER

1734

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/779,662

Applicant(s)

NAKAGAWA ET AL.

Examiner

Sue A. Purvis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/05, 3/04, 2/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-13, 16, 17, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Belt (US Patent No. 6,726,794 B2).

Regarding claim 1, Belt discloses a tape mounting system with a tape holding mechanism (24) that holds tape substantially horizontally, a mounting mechanism (80) that mounts the product (12) to the tape (30) by attaching the edge of the product thereto, and a known control mechanism. (Figures 1, 3, and 5; Col. 6, lines 26-34.)

Regarding claim 2, "[e]xpressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim." *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App. 1969). The tape set forth in claim 2 is material worked upon and fails to distinguish over the prior art.

Regarding claim 3, Figure 11 shows an alternative embodiment with a heating head (264).

Regarding claim 4, the mounting mechanism has a pressing member (80) as shown in Figure 5. Belt teaches that it is known to control such a mechanism as discussed above.

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Regarding claim 5, tape is material worked upon and does not further limit the claim. Figures 5 and 11 show the mounting mechanism attaching the product to the tape by pressing it thereto.

Regarding claim 6, the mounting mechanism applies a small piece of adhesive tape (72) to the mounting tape (30) to mount the product (12).

Regarding claim 7, Belt includes a product placing mechanism (16, 20) which places the product (12) onto the tape and mounting mechanism. As indicated above, Belt teaches using a control mechanism for the apparatus operation.

Regarding claim 8, the roller (20) with pockets (16) acts as a product transport mechanism, transporting the product to the mounting mechanism.

Regarding claim 9, the product transport mechanism (16, 20) and tape holding mechanism (24) are spaced apart in a width direction as seen in Figure 1.

Regarding claim 10, the product transport mechanism (16, 20) and the tape holding mechanism (24) are spaced apart in the vertical direction, thus allowing the roller to rotate and place the product (12) onto the tape held on the holder (12). (See Figure 2.)

Regarding claim 11, the pockets (16) grasp the products (12) as set forth in the claim.

Regarding claim 12, the conveyor or product transfer mechanism (18) transfers the product placing mechanism (16, 20) toward the mounting mechanism (80).

Regarding claim 13, the orientation of the product is changed as it is conveyed around the roller (20).

Regarding claim 16, Belt discloses that the bags are formed by conventional equipment before being advanced to merchandiser. (Col. 7, lines 1-9.)

Regarding claim 17, the tape holding mechanism (24) is disposed in a linear manner from the transport mechanism (16, 20) and spaced apart in a vertical direction.

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Regarding claim 18, Figure 11 shows an alternative embodiment with a heating head (264) mounting mechanism. As discussed above, Belt teaches using a control mechanism for the apparatus operation.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14, 15, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belt as applied to claims 1 and 7 above, and further in view of Nakagawa et al. (US Patent Application Publication No. 2003/0000179 A1).

Regarding claim 14, Belt does not teach the additional step of inspecting the seal. Nakagawa, in discussing JP Laid-Open Patent Application 10-77002, suggests that inspection of the seal is known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to inspect the seal of the package in Belt, because one of ordinary skill in the art would appreciate that such a step prevents improperly sealed packages from being displayed and sold. (See Paragraphs [0004], [0005], [0008], & [0009].)

Regarding claim 15, photoelectric sensors used in Nakagawa are an imaging means as set forth in the claim and are used to control the mechanism.

Regarding claim 19, Nakagawa also discloses that weight detection means are known to be used in packaging systems.

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Regarding claim 20, the purpose of a seal check would be to remove the improperly sealed package, one obvious way to remove the package would be to prevent it from being mounted onto the tape strip. Such a control feature would have been obvious to one having ordinary skill in the art.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Purvis whose telephone number is (571) 272-1236. The examiner can normally be reached on Monday through Friday 9am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sue A. Purvis
Primary Examiner
Art Unit 1734

SP
September 26, 2005